

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:05-CV-00329-TCK-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**OBJECTIONS AND RESPONSES TO PETERSON FARMS'
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
SERVED MARCH 30, 2007**

COMES NOW, the Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA, (hereinafter "the State") and hereby responds to Separate Defendant Peterson Farms, Inc.'s March 30, 2007 Interrogatories and Requests for Production of Documents to Plaintiff.

Preliminary Objections

Although Plaintiff acknowledges that the Federal Rules of Civil Procedure require supplementation of certain discovery answers and responses under specified circumstances, Plaintiff does not concede the validity of applicability of the "Instructions" (set forth on page 3 of Peterson Farms' 2007 discovery requests) with respect to each and every Interrogatory and Request posed or submitted by Peterson Farms. Plaintiff will comply fully its respective discovery obligations as established by the Federal Rules of Civil Procedure, but will not, in the absence of a requirement imposed by the Federal Rules of Civil Procedure or a judicial order,

completed and will be provided to the Defendants in accordance with the Court's Scheduling Order (Dkt. #1075)

INTERROGATORY NO. 7: For each parcel of land identified in your answers to Interrogatory Nos. 2 and 4, please fully describe your basis for contending that such parcel is or ever has been a source site for any contaminate you allege has impaired or injured any natural resource of the State of Oklahoma in the IRW. In doing so, identify your evidence, whether testimonial or documentary, which you contend supports your answer

RESPONSE TO INTERROGATORY NO. 7: The State incorporates its responses and objections to Interrogatories No. 2, 4 and 5 as if stated fully herein

INTERROGATORY NO. 8: Please specifically describe each item of physical damage (injury or impairment) to any natural resource of the State of Oklahoma in the IRW, which you contend is being or ever was caused or contributed to by any act or omission of Peterson Farms. Your answer should include, but not be limited to, identifying the specific resource and location, describing the specific damage (injury or impairment), and describing the factual causal connection between such damage (injury or impairment) and the alleged act or omission of Peterson Farms, as well as identifying your evidence, whether testimonial or documentary, which you contend supports your answer.

RESPONSE TO INTERROGATORY NO. 8: The State objects to this Interrogatory on the ground that it improperly seeks identification of "each" item of responsive information, which renders it overly broad and oppressive. It may be impossible to locate "each" items of responsive information to this Interrogatory. In addition, the State objects to the phrase "is being or ever was" as being vague, ambiguous, overly broad and burdensome, and impossible to determine within the context of this Interrogatory

The State further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege or work product protection, or information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial Fed.R.Civ.P. 26(b)(4)(A) and (B). The State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court's Scheduling Order (Dkt #1075). The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports and the State reserves the rights to supplement its response.

Subject to and without waiving its general objections or these specific objections, the State submits as follows:

A. The following natural resources have sustained physical damage, injury or impairment by the acts and omissions of the Defendants, including Peterson Farms:

- 1 Surface Water -- Surface waters contained within the Oklahoma portion of the Illinois River Watershed, including but not limited to the surface waters of the Illinois River, Flint Creek, Baron Fork, Lee Creek, Peacheater Creek, Tyner Creek, Lake Tenkiller and any and all tributaries to the above.
- 2 Groundwater -- Groundwater contained within the Oklahoma portion of the Illinois River Watershed.
- 3 Biota -- Biota, including, but not limited to, birds, mammals, fish, and invertebrates, contained within the Oklahoma portion of the Illinois River Watershed.
- 4 Sediments/River/Stream/Lake Bottoms -- Sediment/river/stream/lake bottoms contained within the Oklahoma portion of the Illinois River Watershed.

5. Land -- Land impacted by poultry waste within the Oklahoma portion of Illinois River Watershed

(B) The State anticipates that expert reports, to be submitted pursuant this Court's Scheduling Order, will support a claim of injury to the above identified natural resources and which is of a nature and magnitude sufficient to support a claim for damages to replace or restore each natural resource:

1. Existing data and new data (produced to Defendants on February 1, 3, and 8, 2007 and in subsequent productions) demonstrate that surface waters within the Oklahoma portion of the Illinois River Watershed have been injured in such magnitude sufficient to support a claim of damages. Increased nutrient and bacterial concentrations have resulted in degradation of water quality

2. Existing data and new data (produced to Defendants on February 1, 3, and 8, 2007 and in subsequent productions) demonstrate that groundwater in the Oklahoma portion of the Illinois River Watershed has been injured in such magnitude sufficient to support a claim of damages. Increased nutrient and bacterial concentrations have resulted degradation of water quality.


3. Existing data and new data (produced to Defendants on February 1, 3, and 8, 2007 and in subsequent productions) demonstrate that biota in the Oklahoma portion of the Illinois River Watershed have been injured in such magnitude sufficient to support a claim of damages. Increased nutrient, metal and bacteria levels have affected community structure, decreased fish habitat and affected fish growth and health

4. Existing data and new data (produced to Defendants on February 1, 3, and 8 and in subsequent productions) demonstrate that sediments/river/stream/lake bottoms in

VERIFICATION

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, Miles Tolbert, being of legal age, hereby depose and state that I have read the foregoing responses to these interrogatories and that they are true and correct, to the best of my knowledge and belief, and that I furnish such responses based on consultation with the representatives of the State of Oklahoma.



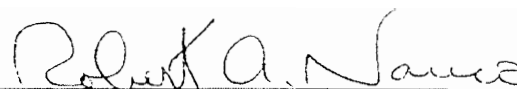
Miles Tolbert
Secretary of the Environment
State of Oklahoma

Signed and subscribed to before me on this 1st day of ^{June}~~April~~ 2007

Notary Public

My Commission Expires:

11/09/10
My Commission Number:
02017963



M. David Riggs OBA #7583
Joseph P. Lennart OBA #5371
Richard T. Garren OBA #3253
Douglas A. Wilson OBA #13128
Sharon K. Weaver OBA #19010
Robert A. Nance OBA #6581
D. Sharon Gentry OBA #15641
Riggs, Abney, Neal, Turpen,
Orbison & Lewis
502 West Sixth Street
Tulsa, OK 74119
(918) 587-3161

James Randall Miller, OBA #6214
Louis Werner Bullock, OBA #1305
Miller Keffer & Bullock
222 S. Kenosha
Tulsa, Ok 74120-2421
(918) 743-4460

David P. Page, OBA #6852
Bell Legal Group
222 S. Kenosha
Tulsa, OK 74120
(918) 398-6800

Frederick C. Baker
(admitted *pro hac vice*)
Lee M. Heath
(admitted *pro hac vice*)
Elizabeth C. Ward
(admitted *pro hac vice*)
Elizabeth Claire Xidis
(admitted *pro hac vice*)
Motley Rice, LLC
28 Bridgeside Boulevard
Mount Pleasant, SC 29465
(843) 216-9280

William H. Narwold
(admitted *pro hac vice*)
Motley Rice, LLC
20 Church Street, 17th Floor
Hartford, CT 06103
(860) 882-1676

Attorneys for the State of Oklahoma